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Facsimile Transmittal

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OCT 11 2004

To: Examiner Jeffrey R. Jastrzab
Art Unit: 3762

Fax: (703) 872-9306

From: Patrick J.S. Inouye

Date: October 11, 2004

Re: U.S. Patent Application
Serial No. 10/646,084

Pages: 7 (including cover sheet)

CC:

Urgent **For Review** **Please Comment** **Please Reply** **Please Recycle**

Notes:**Examiner Jastrzab:**

Please find attached the following documents regarding the above-identified U.S. patent application.

- USPTO Transmittal Form
- USPTO Fee Transmittal Form
- Credit Card Payment for \$110.00
- Office Action Response
- Terminal Disclaimer To Obviate A Double Patenting Rejection Over Prior Patents

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Received in
CF-10-12-04

PTO/SB/21 (04-04)

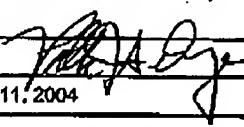
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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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TRANSMITTAL FORM <i>(To be used for all correspondence after initial filing)</i>		Application Number	10/846,084
		Filing Date	August 22, 2003
		First Named Inventor	Bardy, Gust H.
		Art Unit	3762
		Examiner Name	Jeffrey R. Jastrzab
Total Number of Pages in This Submission		Attorney Docket Number	
		020.0343.US.CON	

ENCLOSURES (Check all that apply)			
<input checked="" type="checkbox"/> Fee Transmittal Form <input checked="" type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input checked="" type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance communication to Technology Center (TC) <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Facsimile Cover Sheet	
		Remarks	

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	Law Offices of Patrick J.S. Inouye
Signature	
Date	October 11, 2004

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.			
Typed or printed name	Krystyna Szul		
Signature		Date	October 11, 2004

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PTO/SB/17 (10-03)

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FEE TRANSMITTAL for FY 2005

Effective 10/01/2004. Patent fees are subject to annual revision.

 Applicant Claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$ 110.00)

Complete If Known

Application Number	10/646,084
Filing Date	August 22, 2003
First Named Inventor	Bardy
Examiner Name	Jeffrey R. Jastrzab
Art Unit	3762
Attorney Docket No.	020.0343.US.CON

METHOD OF PAYMENT (check all that apply)

 Check Credit card Money Order Other None Deposit Account

Deposit Account Number	503031
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FEE CALCULATION

1. BASIC FILING FEE

Large Entity	Small Entity	Fee Description	Fee Paid
Fee Code (\$)	Fee Code (\$)		
1001 780	2001 385	Utility filing fee	
1002 350	2002 175	Design filing fee	
1003 550	2003 275	Plant filing fee	
1004 780	2004 395	Reissue filing fee	
1005 180	2005 80	Provisional filing fee	

SUBTOTAL (1) (\$)

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

		Extra Claims	Fee from below	Fee Paid
Total Claims		-20 ^{**}	<input type="checkbox"/> X <input type="checkbox"/>	= <input type="checkbox"/>
Independent Claims		-3 ^{**}	<input type="checkbox"/> X <input type="checkbox"/>	= <input type="checkbox"/>

Multiple Dependent

Large Entity	Small Entity	Fee Description	Fee Paid
Fee Code (\$)	Fee Code (\$)		
1202 18	2202 9	Claims in excess of 20	
1201 88	2201 44	Independent claims in excess of 3	
1203 300	2203 150	Multiple dependent claim, if not paid	
1204 88	2204 44	**Reissue independent claims over original patent	
1205 18	2205 9	**Reissue claims in excess of 20 and over original patent	

SUBTOTAL (2) (\$)

** or number previously paid, if greater; For Reissues, see above

3. ADDITIONAL FEES

Large Entity	Small Entity	Fee Description	Fee Paid
Fee Code (\$)	Fee Code (\$)		
1051 130	2051 85	Surcharge - late filing fee or oath	
1052 60	2052 25	Surcharge - late provisional filing fee or cover sheet	
1053 130	1053 130	Non-English specification	
1812 2,520	1812 2,520	For filing a request for ex parte reexamination	
1804 920*	1804 920*	Requesting publication of SIR prior to Examiner action	
1805 1,840*	1805 1,840*	Requesting publication of SIR after Examiner action	
1251 110	2251 65	Extension for reply within first month	
1252 430	2252 215	Extension for reply within second month	
1253 980	2253 490	Extension for reply within third month	
1254 1,530	2254 765	Extension for reply within fourth month	
1255 2,080	2255 1,040	Extension for reply within fifth month	
1401 340	2401 170	Notice of Appeal	
1402 340	2402 170	Filing a brief in support of an appeal	
1403 300	2403 150	Request for oral hearing	
1451 1,510	1451 1,510	Petition to institute a public use proceeding	
1452 110	2452 55	Petition to revive - unavoidable	
1453 1,370	2453 685	Petition to revive - unintentional	
1501 1,370	2501 685	Utility issue fee (or reissue)	
1502 480	2502 245	Design issue fee	
1503 680	2503 380	Plant issue fee	
1460 130	1460 130	Petitions to the Commissioner	
1807 50	1807 50	Processing fee under 37 CFR 1.17(q)	
1806 180	1806 180	Submission of Information Disclosure Stmt	
8021 40	8021 40	Recording each patent assignment per property (times number of properties)	
1809 790	2809 395	Filing a submission after final rejection (37 CFR 1.129(b))	
1810 790	2810 395	For each additional invention to be examined (37 CFR 1.129(b))	
1801 790	2801 385	Request for Continued Examination (RCE)	
1802 900	1802 900	Request for expedited examination of a design application	

Other fee (specify) Terminal Disclaimer

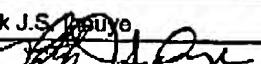
*Reduced by Basic Filing Fee Paid

SUBTOTAL (3)

(\$ 110.00)

SUBMITTED BY

Complete (if applicable)

Name (Print/Type)	Patrick J.S. Inouye	Registration No. (Attorney/Agent)	40297	Telephone	(206) 381-3900
Signature		Date	October 11, 2004		

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Response to First Office Action
Docket No. 020.0343.US.CON

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

15

RESPONSE TO FIRST OFFICE ACTION

Commissioner for Patents
P.O. Box 1450
20 Alexandria, VA 22313-1450

Examiner Jastrzab:

In response to the Office action mailed on September 29, 2004 for the above-referenced patent application, please consider the following remarks.

25 Claims 1-23 are pending. No claims have been amended. Claims 1-23 remain in this application. No new matter has been entered.

Claims 1-23 stand rejected under the judicially created doctrine of obviousness-type double patenting over Claims 1-23 of commonly-assigned U.S. Patent No. 6,203,495 ('495), Claims 1-62 of commonly-assigned U.S. Patent No. 6,312,378 ('378), Claims 1-15 of commonly-assigned U.S. Patent No. 6,331,160 ('160), and Claims 1-19 of commonly-assigned U.S. Patent No. 6,478,737 ('737).

A Terminal Disclaimer is enclosed disclaiming the terminal part of any patent granted on the instant patent application that would extend beyond the expiration dates of the '495, '378, '160, and '737 patents. Withdrawal of the rejection for double-patenting is respectfully requested.

The prior art made of record and not relied upon has been reviewed by the applicant and is considered to be no more pertinent than the prior art references already applied.